IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3377 OF 2006

Chandrakant @ Kantu Revensiddha Pujari ... Applicant

versus

The State of Maharashtra ... Respondent

U.R.Angadsurve for applicant.
S.S.Pednekar, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 3rd October 2006

PC :

1. The applicant has been arrested on 19th April 2006 in connection with CR No.63 of 2006 registered at Mangalwedha Police Station, District Solapur. The offences alleged are punishable under sections 302, 147 to 149, 341, 323, 504 r/w 34 IPC..

2. It is not in dispute that the investigations are complete and charge sheet is filed.

3. It is rather unfortunate that one co-accused Somling Pujari had applied for bail before this

Court in connection with same CR and his Criminal Application No.3028 of 2006 was disposed off by me on 16th August 2006. My order reads thus :-

> ". Heard Mr.Agarwal for applicant and Ms.Deshmukh, A.P.P. for State. It appears that Criminal Misc. Application 267 of 2006 was filed by nine accused including the applicant, who is accused No.10. After perusing the application and the annexures thereto, I am of the view that some of the accused (majority of them) have identical surnames. It is in these circumstances, there was confusion before the Trial Court about role of applicant accused before it. This is not a satisfactory way of dealing with a bail application filed jointly on behalf of nine accused.
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> 2. However, without going into this aspect any further and when Mr.Agarwal is praying for withdrawal of this application with liberty to file a fresh application on behalf of the applicant for being released on bail, the application before me is disposed of as withdrawn, with liberty as above.
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> 3. Needless to state that the trial court shall consider the application to be preferred by the applicant without being influenced by the earlier order and on its own merits and in accordance with law."

4. The applicant before me is accused no.9 and he filed a bail application which was numbered as Exhibit-27. This bail application was heard along with bail applications of co-accused Arjun, Ramesh, Arun, Prabhu and the applicant in

5. It is unfortunate that despite the order passed by this Court being pointed out, the learned Judge has proceeded to reject all applications by a common order. The Hon'ble Supreme Court has time and again observed that while considering the bail applications the Courts must bear in mind the following factors:-

> "(2005)8-SCC-21 : (State of U.P. through CBI Vs. Amarmani Tripathi with State of U.P. through CBI Vs. Madhumani Tripathi) :-
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> 18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (See Prahlad Singh Bhati v. NCT, Delhi and Gurucharan Singh v. State {Delhi Admn.}). While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will

be refused."

6. Naturally, these factors not only are relevant but are to be taken into consideration qua each accused. An omnibus and a general observation must be avoided unless a case is made out in that behalf. When this Court had directed the Trial Court to decide the bail applications keeping in mind the relevant principles, the Trial Court has unfortunately not implemented the order of this court in letter and spirit. It has also not followed the binding principles laid down in the Supreme Court decision.

7. It is, therefore, futile now to send back the application to the Trial Court. I have perused with the assistance of Shri Angadsurve and learned APP the statement of complainant. To the similar effect are the statements of sister-in-law of the deceased. The complainant has involved everybody including present applicant in the act of beating and assaulting the deceased by kicks and fist blows. The deceased was assaulted by stick by Laxman Pujari and Omu Pujari. As far as present applicant is concerned, he has allegedly given kick and fist blows. There is no recovery at his instance. In

such circumstances and when the charge sheet is filed, the applicant's case deserves to be considered favourably. More so, when there are no antecedents and no apprehension is expressed that the applicant would not be available during the course of trial. Hence, even if the charge is framed and the case is ripe for trial, I am inclined to consider this application.

8. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.63 of 2006 registered at Mangalwedha Police Station, District Solapur, subject to furnishing a personal bond of Rs.5,000/- (Rs.Five thousand only) with one or two local sureties in the like sum;

(ii) The applicant shall not enter the limits of Miri, Taluka Mohol, Dist. Solapur till conclusion of trial;

(iii) The applicant shall forthwith furnish his new residential address to the investigating authority where he proposes to reside after bail and during pendency of trial, and shall not change his residence without prior intimation to

the investigating authority;

(iv) The applicant shall report to the nearest Police Station of his new residence where proposes to reside after bail, once a week till conclusion of trial;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(vi) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial;

(viii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)